



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,959	12/17/2001	Norio Kobayashi	027650-945	8014

21839 7590 05/21/2003

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
----------	--------------

1773

DATE MAILED: 05/21/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,959

Applicant(s)

KOBAYASHI ET AL

Examiner

Monique R Jackson

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The preliminary amendment filed 10/22/01 has been entered. New claims 7-8 have been added. Claims 1-8 are pending in the application.

Claim Objections

2. Claim 1 is objected to because of the following informalities: on line 19 "in" should be "on". Appropriate correction is required.

3. Claim 2 is objected to because of the following informalities: on line 3, "in" should be "on". Appropriate correction is required.

4. Claim 3 is objected to because of the following informalities: on line 3, "to" should be "on", on line 6, "in" should be "on". Appropriate correction is required.

5. Claim 4 is objected to because of the following informalities: on lines 2-3, the term "aluminum vapor deposit to" should be "vapor depositing aluminum on". Appropriate correction is required.

6. Claim 5 is objected to because of the following informalities: on lines 3-4, the term "aluminum vapor deposit to" should be "vapor depositing aluminum on". Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "by printing simultaneously, before and after the

Art Unit: 1773

above-mentioned steps" however it is not possible to print simultaneously before and after the above-mentioned steps given that the term "simultaneously" means "at the same" hence it is unclear how one could print before and after yet at the same time.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 945 252 A2 (EP'252) in view of DeLisio et al. EP'252 teaches a laminated packaging film comprising (B) a metallocene-catalyzed linear low density polyethylene layer (mLLDPE) and (A) an aluminum layer wherein the aluminum layer may be formed by vapor deposition of aluminum onto a polymer base such as a polyethylene layer wherein the laminated film may comprise additional layers such as a paper substrate (C) and an additional polyethylene layer (D) on the opposite side of the aluminum layer (A) remote from (B), such that EP'252 teaches a laminate comprising the following layer structure: mLLDPE(B)/vapor-deposited aluminum on polyethylene base(A)/paper substrate(C)/polyethylene layer (D), which is similar to the laminate structures of instant claims 4 and 5 with the exception of the printing ink layer, however it would have been obvious to one having ordinary skill in the art at the time of the invention to provide printing layers on either or both exposed polyethylene surfaces of the laminate taught by EP'252 given that it is well known in the packaging art to utilize printing ink layers to provide product information wherein DeLisio et al specifically teach a packaging composite comprising an outer

Art Unit: 1773

layer of mLLDPE which may be surface treated to make it more receptive to printing inks (Col. 4, lines 47-51.) The Examiner also notes that EP'252 teaches forming the aluminum layer by vapor depositing aluminum to the layer opposite from the mLLDPE however with regards to the aluminum deposition step, the Examiner takes the position that this limitation is a process limitation that does not materially affect the resulting composition given that the resulting composite comprises the same layers in the same order as the instant invention.

11. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP'252 in view of DeLisio et al. The teachings of EP'252 are discussed above. Though EP'252 teach various layer structures wherein the laminate may include a number of polyethylene layers, a mLLDPE layer on either side of the composite given that the polyethylene layer (D) may be mLLDPE, or an intermediate mLLDPE layer, EP'252 does not teach the laminate structure as instantly claimed in Claim 3. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize any of the film layers taught by EP'252 and to determine the optimum number of each layer to provide the desired packaging properties for a particular end use particularly given that vapor deposited aluminum is a barrier material wherein an increase of aluminum thickness or increase of aluminum layers provides increased barrier properties.

Allowable Subject Matter

12. Claims 1-2 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Art Unit: 1773

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'm. Jackson', with a stylized flourish at the end.

Monique R. Jackson
Patent Examiner
Technology Center 1700
May 19, 2003